



Attorney Docket: 1087.3C(37US4)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: ROLFE C. ANDERSON et al.  
Serial No: 09/751,658  
Filed: December 31, 2000  
For: INTEGRATED NUCLEIC ACID DIAGNOSTIC DEVICE

Examiner: W. Beisner  
Art Unit: 1744

**RECEIVED**  
**JAN 12 2004**  
**TC 1700**

COMMISSIONER FOR PATENTS  
U.S. PATENT AND TRADEMARK OFFICE

**TERMINAL DISCLAIMER BY ATTORNEY OF RECORD  
PURSUANT TO §1.321(b)**

Sir:

The above-captioned application is a continuation of U.S. Patent Application 09/294,700, filed on April 19, 1999, now U.S. Patent 6,197,595; which is a divisional of U.S. Patent Application 08/671,928, filed on June 27, 1996, now U.S. Patent 5,922,591, which is a continuation-in-part of U.S. Patent Application 08/589,027, filed on January 19, 1996, now U.S. Patent 5,856,174, which claims priority from U.S. Provisional Application 60/000,703, filed on June 29, 1995 and also claims priority from U.S. Provisional Application 60/000,859, filed on July 3, 1995. The US Application 09/294,700 is also a continuation-in-part of U.S. Patent Application 09/210,025, filed on December 11, 1998 now U.S. Patent 6,043,080.

Petitioner, AFFYMETRIX, INC., is the owner of 100 percent interest in the above applications.

To obviate a double patenting rejection, Petitioner hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 5,922,591. Petitioner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent

granted on the instant application and is binding upon the grantee, its successors or assigns.


In making the above disclaimer, petitioner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Pursuant to filing a Terminal Disclaimer, Applicant hereby authorizes payment of the statutory disclaimer fee, pursuant to 37 CFR §1.20(d), of \$110.00 by charging the fee to Deposit Account No. 01-0431. Please charge any additional fees or credit overpayment to the above Deposit Account. This Petition is submitted in duplicate.

The undersigned is an attorney of record.

Date: December 29, 2003

  
\_\_\_\_\_  
Ivan D. Zitkovsky  
Attorney at Law representing Affymetrix Inc.

Ivan D. Zitkovsky, Reg. No. 37,482  
6 Freeman Circle  
Lexington, MA 02421-7713

Tel. +781-274-6692 (or 274-8064)  
Fax +781-274-6696